

HORWOOD MARCUS & BERK CHARTERED

Aaron L. Hammer

Nathan E. Delman

500 W. Madison St., Ste. 3700

Chicago, IL 60661

312-606-3200

ahammer@hmblaw.com

ndelman@hmblaw.com

Attorneys for Foundry Digital LLC

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:

Genesis Global Holdco, LLC, et al.,¹

Debtors.

Chapter 11

Case No. 23-10063 (SHL)

Jointly Administered

**LIMITED OBJECTION OF FOUNDRY DIGITAL LLC TO DEBTORS'
DISCLOSURE STATEMENT FOR AMENDED JOINT PLAN
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

Foundry Digital LLC (“Foundry”), a creditor in these bankruptcy cases, hereby submits this *Limited Objection of Foundry Digital LLC to Debtors’ Disclosure Statement for Amended Joint Plan Under Chapter 11 of the Bankruptcy Code* (this “Objection”) to Debtors’ *Disclosure Statement for Amended Joint Plan Under Chapter 11 of the Bankruptcy Code* (the “Disclosure Statement”) [Dkt. No. 839], and respectfully represents as follows:²

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s tax identification number (as applicable), are: Genesis Global Holdco, LLC (8219); Genesis Global Capital, LLC (8564); Genesis Asia Pacific Pte. Ltd. (2164R). For the purpose of these Chapter 11 Cases, the service address for the Debtors is 250 Park Avenue South, 5th Floor, New York, NY 10003.

² Capitalized terms not defined herein shall have the same meaning ascribed to them in the Disclosure Statement.

FACTUAL BACKGROUND

1. Foundry and the Debtors both are Digital Currency Group, Inc. (“DCG”) companies.

2. In June and August of 2020, Foundry loaned 125,000 ZEC (the “ZEC”) to debtor Genesis Global Capital, LLC (“Genesis”), whereby Genesis became obligated to make interest payments to Foundry.

3. Separately, in April 2022, Foundry borrowed 300 BTC from Genesis, and on November 9, 2022, Genesis requested that Foundry pledge the ZEC to secure its BTC loan. Foundry consented, and Foundry and Genesis entered into that certain Master Loan Agreement dated November 7, 2022 (the “MLA”), which was collateralized with the ZEC.

4. On November 11, 2022, Genesis requested that Foundry pay the full MLA balance, and Foundry consented and paid the full amount to Genesis. Upon this payment, Genesis was obligated to return the ZEC to Foundry. However, Genesis never returned the ZEC and, on information and belief, may continue to retain possession of this asset.

5. Foundry believes that, as Genesis lost any legal or equitable right to possess the ZEC, that it is not among the Debtors’ assets or property of the bankruptcy estate.

6. Notwithstanding the foregoing, in order to protect its rights, on May 22, 2023, Foundry timely filed a secured claim in the amount of at least \$5,775,388.81 on account of the ZEC (the “Claim”).

OBJECTION

7. Foundry objects to the Disclosure Statement because it fails to provide adequate information as required under 11 U.S.C. § 1125. The central function of a disclosure statement is to provide creditors with adequate information, which the Bankruptcy Code defines as:

[I]nformation of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the debtor's books and records...that would enable a hypothetical reasonable investor of the relevant class to make an informed judgment about the plan...

See 11 U.S.C. § 1125(a).”³

8. However, the Disclosure Statement provides Foundry with no such information.

9. The Debtors' previous proposed plan⁴ obfuscated Foundry's treatment by creating a class of creditors named “DCG Parties” which are defined as “DCG and its Related Parties; provided that those Persons identified in the Plan Supplement shall not constitute DCG Parties.” June Plan at 11.

10. The term “Related Party” is defined to include “subsidiaries [and] affiliates”. *Id.* at 17. Accordingly, as a DCG subsidiary, Foundry may likely be included as a DCG Party.

11. The June Plan presumed claims of DCG Parties would receive no distribution, but in the event they were allowed, they would have been treated as general unsecured claims, and even then would have been excluded from receiving payments from certain sources available to other general unsecured creditors, namely, “any DCG Recoveries or... any Avoidance Recoveries arising from Avoidance Actions against any of the DCG Parties.” *Id.* at 40.

12. While the newly filed *Debtors' Amended Joint Chapter 11 Plan* (the “Amended Plan”) [Dkt. No. 838] no longer has a separate class for DCG Parties, the Amended Plan is silent on the treatment of the Claim. Accordingly, Foundry still cannot determine how its claim shall be treated.

³ See also *In re Moshe*, 567 B.R. 438, 444 (Bankr. E.D.N.Y. 2017) (denying approval of disclosure statement) (quoting 11 U.S.C. § 1125(a)(1)); see also *In re Quigley Co.*, 377 B.R. 110, 115 (Bankr. S.D.N.Y. 2007) (“A disclosure statement must contain ‘adequate information,’ . . . describing a confirmable plan.” (quoting 11 U.S.C. § 1125(a) & (b))).

⁴ *I.e.* *Debtors' Amended Joint Chapter 11 Plan* (the “June Plan”) [Dkt. No. 427].

13. Specifically, secured claims are unimpaired and should expect:

payment in full in Cash, payable on the later of the Effective Date and the date that is ten (10) Business Days after the date on which such Secured Claim becomes an Allowed Secured Claim against [Genesis], in each case, or as soon as reasonably practicable thereafter, (ii) the return of the collateral securing such Allowed Secured Claim, or (iii) such other treatment so as to render such Holder's Allowed Secured Claim against [Genesis] Unimpaired pursuant to section 1124 of the Bankruptcy Code.

Amended Plan at 35.

14. But, Foundry has not received any confirmation its Claim shall be treated as a secured claim under this class.

15. Additionally, neither the Disclosure Statement nor the Amended Plan disclose whether Genesis currently possesses Foundry's ZEC or if returning the ZEC – or a cash equivalent – will be included in the anticipated wind down of Genesis' assets.

16. In summary, the Disclosure Statement gives no indication how Foundry's Claim will be treated. Given this plain inadequacy for its Claim treatment, the Disclosure Statement fails to provide sufficient detail to Foundry.

RESERVATION OF RIGHTS

17. Foundry reserves all rights to object to confirmation of the Amended Plan, including on any of the above grounds and on grounds not raised in this objection, and to supplement this Objection, should the Debtors re-notice the hearing or the objection deadline.

WHEREFORE, the Court should deny the Debtors' request for approval of the Disclosure Statement and require the Debtors to submit the Plan Supplement before it considers the adequacy of the Disclosure Statement, and grant such other and further relief that is just and proper.

Dated: October 31, 2023

Respectfully submitted,

**HORWOOD MARCUS & BERK
CHARTERED**

/s/ Aaron L. Hammer

Aaron L. Hammer, Esq. (NY Bar #4759080)

ahammer@hmblaw.com

Nathan E. Delman, Esq.

ndelman@hmblaw.com

500 W. Madison, Suite 3700

Chicago, IL 60661

Telephone: (312) 606-3200

CERTIFICATION OF SERVICE

I hereby certify that on the 31st day of October, 2023, a true and correct copy of the foregoing *Limited Objection of Foundry Digital LLC to Debtors' Disclosure Statement for Amended Joint Plan Under Chapter 11 of the Bankruptcy Code* was served (i) electronically by ECF notification from the court to counsel for the Debtor, the U.S. Trustee, and all interested parties, (ii) upon the parties listed on the attached service list in the manner indicated.

Dated: October 31, 2023

/s/ Aaron L. Hammer
Aaron L. Hammer (NY Bar #4759080)
ahammer@hmbllaw.com
Nathan E. Delman
ndelman@hmbllaw.com
HORWOOD MARCUS & BERK
CHARTERED
500 W. Madison St., Suite 3700
Chicago, Illinois 60661
Ph: (312) 606 3200
Fax: (312) 606 3232
Attorneys for Foundry Digital LLC

In re: Genesis Global Holdco, LLC, et al.
Master Service List
Case No. 22-10063 (SHL)

DESCRIPTION	NAME	NOTICE NAME	ADDRESS 1	ADDRESS 2	CITY	STATE	ZIP	EMAIL	Method of Service
Counsel to Soichiro "Michael" Moro	Arnold & Porter Kaye Scholer LLP	Attn: Benjamin Mintz, Marcus Asner, Justin Imperato	250 West 55th Street		New York	NY	10019	benjamin.mintz@arnoldporter.com marcus.asner@arnoldporter.com justin.imperato@arnoldporter.com	Email
Counsel to Donut, Inc.	ASK LLP	Attn: Edward E. Neiger, Marianna Udem	60 East 42nd Street, 46th Floor		New York	NY	10165	eneiger@askllp.com mudem@askllp.com	Email
Counsel to Digital Finance Group Co.	Baird Holm LLP	Attn: Jeremy C. Hollembeak	1700 Farnam St. Ste. 1500		Omaha	NE	68102	jhollembeak@bairdholm.com	Email
Counsel to the Fair Deal Group	Brown Rudnick LLP	Attn: Kenneth J. Aulet	Seven Times Square		New York	NY	10036	kaulet@brownrudnick.com	Email
Counsel to the Fair Deal Group	Brown Rudnick LLP	Attn: Matthew A. Sawyer	One Financial Center		Boston	MA	02111	msawyer@brownrudnick.com	Email
United States Bankruptcy Court for the Southern District of New York	Chambers of Honorable Sean H. Lane	Genesis Chambers Copy	US Bankruptcy Court SDNY	300 Quarropas Street, Room 147	White Plains	NY	10601		Federal Express
Counsel to the Debtors and Debtors-in Possession	Cleary Gottlieb Steen & Hamilton LLP	Attn: Jack Massey	2112 Pennsylvania Avenue, N.W.		Washington	DC	20037	jamasse@cgsh.com	Email
Counsel to the Debtors	Cleary Gottlieb Steen & Hamilton LLP	Attn: Sean O'Neal, Jane VanLare, Hoo Ri Kim, Michael Weinberg, Richard C. Minott, Christian Ribeiro, Luke A. Barefoot, Andrew Weaver, Rishi Zutshi, Sabrina A. Bremer	One Liberty Plaza		New York	NY	10006	sonéal@cgsh.com jvanlare@cgsh.com hokim@cgsh.com mdweinberg@cgsh.com rminott@cgsh.com cribeiro@cgsh.com lbarefoot@cgsh.com aweaver@cgsh.com rzutshi@cgsh.com sabrainer@cgsh.com	Email
Debtors	Genesis Global Holdco, LLC	Attn: Derar Islim, Arianna Pretto-Sankman	250 Park Avenue South	5th Floor	New York	NY	10003	arianna@genestrading.com	Email
Counsel to Foundry Digital LLC	Horwood Marcus & Berk Chartered	Attn: Aaron L. Hammer, Nathan E. Delman	500 W. Madison St., Ste. 3700		Chicago	IL	60661	ahammer@hmblaw.com ndelman@hmblaw.com ecfnofices@hmblaw.com	Email
Counsel to Gemini Trust Company, LLC	Hughes Hubbard & Reed LLP	Attn: Anson B. Frelinghuysen, Dustin P. Smith, Jeffrey S. Margolin, Erin Diers	One Battery Park Plaza		New York	NY	10004	anson.frelinghuysen@hugheshubbard.com dustin.smith@hugheshubbard.com jeff.margolin@hugheshubbard.com	Email
IRS Insolvency Section	Internal Revenue Service	Centralized Insolvency Operation	1111 Constitution Ave., NW		Washington	DC	20224	mimi.m.wong@irsounsel.treas.gov	Email
IRS Insolvency Section	Internal Revenue Service	Centralized Insolvency Operation	P.O. Box 7346		Philadelphia	PA	19101-7346	mimi.m.wong@irsounsel.treas.gov	Email
Bankruptcy Counsel to the Securities Litigation Lead Plaintiff	Kaplan Fox & Kilsheimer LLP	Attn: Jeffrey P. Campisi	800 Third Avenue, 38th Floor		New York	NY	10022	jcampisi@kaplanfox.com	Email
Counsel to Ad Hoc Group of Creditors	Kirkland & Ellis LLP Kirkland & Ellis International LLP	Attn: Joshua A. Sussberg, Christopher Marcus, Ross J. Fiedler	601 Lexington Avenue		New York	NY	10022	joshua.sussberg@kirkland.com christopher.marcus@kirkland.com ross.fiedler@kirkland.com	Email
Special Litigation Counsel to Debtors and Debtors-in-Possession	Kobre & Kim LLP	Attn: Danielle L. Rose, Daniel J. Saval, John G. Conte	800 Third Avenue		New York	NY	10022	Danielle.Rose@kobrekim.com Daniel.Saval@kobrekim.com John.Conte@kobrekim.com	Email
Claims and Noticing Agent	Kroll Restructuring Administration LLC	Attn: Jessica Berman, Christine Porter, & Herb Baer	55 East 52nd Street	17th Floor	New York	NY	10055	genesisteam@ra.kroll.com servicega@ra.kroll.com	Email
Counsel to Foreign Representatives of Three Arrows Capital, Ltd. (in liquidation)	Latham & Watkins LLP	Attn: Adam J. Goldberg, Christopher Harris, Brett M. Neve, Nacif Taousse, Marissa Alter-Nelson	1271 Avenue of the Americas		New York	NY	10020	adam.goldberg@lw.com chris.harris@lw.com brett.neve@lw.com nacif.taousse@lw.com marissa.alter-nelson@lw.com	Email

In re: Genesis Global Holdco, LLC, et al.
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DESCRIPTION	NAME	NOTICE NAME	ADDRESS 1	ADDRESS 2	CITY	STATE	ZIP	EMAIL	Method of Service
Counsel to Joint Liquidators of Three Arrows Capital, Ltd. (in liquidation)	Latham & Watkins LLP	Attn: Eric R. Swibel	330 North Wabash Avenue	Suite 2800	Chicago	IL	60611	eric.swibel@lw.com	Email
Counsel to Foreign Representatives of Three Arrows Capital, Ltd. (in liquidation)	Latham & Watkins LLP	Attn: Nima H. Mohebbi, Tiffany M. Ikeda, Sarah F. Mitchell, Emily R. Orman	355 South Grand Avenue, Suite 100		Los Angeles	CA	90071	nima.mohebbi@lw.com tiffany.ikeda@lw.com sarah.mitchell@lw.com emily.orman@lw.com	Email
Counsel to 250 Park LLC	Leech Tishman Robinson Brog, PLLC	Attn: Fred B. Ringel	875 Third Avenue, 9th Floor		New York	NY	10022	fringel@leechtishman.com	Email
Bankruptcy Counsel to the Securities Litigation Lead Plaintiff	Lowenstein Sandler LLP	Attn: Michael S. Etkin, Andrew D. Behlmann, Michael Papandrea	One Lowenstein Drive		Roseland	NJ	07068	metkin@lowenstein.com abehlmann@lowenstein.com mpapandrea@lowenstein.com	Email
Counsel to the New Jersey Bureau of Securities	McElroy, Deutsch, Mulvaney & Carpenter, LLP	Attn: Jeffrey Bernstein	570 Broad Street	Suite 1401	Newark	NJ	07102	jbernstein@mdmc-law.com	Email
Counsel to the New Jersey Bureau of Securities	McElroy, Deutsch, Mulvaney & Carpenter, LLP	Attn: Nicole Leonard	225 Liberty Street	36th Floor	New York	NY	10281	nleonard@mdmc-law.com	Email
Counsel to the New Jersey Bureau of Securities	McElroy, Deutsch, Mulvaney & Carpenter, LLP	Attn: Virginia T. Shea	1300 Mt. Kemble Avenue	P.O. Box 2075	Morristown	NJ	07962-2075	vshea@mdmc-law.com	Email
Special Litigation and Enforcement Counsel to the Debtors	Morrison Cohen LLP	Attn: Heath D. Rosenblat, Jason P. Gottlieb	909 Third Avenue	27th Floor	New York	NY	10022	hrosenblat@morrisoncohen.com	Email
Counsel to NYSOAG	New York State Office of the Attorney General	Attn: Gabriel Tapalaga	Investor Protection Bureau	28 Liberty St., 21st Floor	New York	NY	10005	gabriel.tapalaga@ag.ny.gov	Email
Counsel to Mirana Corp.	Norton Rose Fulbright US LLP	Attn: Eric Daucher, Victoria V. Corder, Francisco Vazquez	1301 Avenue of the Americas		New York	NY	10019-6022	eric.daucher@nortonrosefulbright.com victoria.corder@nortonrosefulbright.com victoria.corder@nortonrosefulbright.com	Email
Office of The United States Trustee – NY Office	Office of the US Trustee	Attn: Greg Zipes	Alexander Hamilton Custom House	One Bowling Green, Suite 515	New York	NY	10014	ustpregion02.nyecf@usdoj.gov andy.velez-rivera@usdoj.gov tara.tiantian@usdoj.gov greg.zipes@usdoj.gov	Email
Counsel to Official Committee of Unsecured Creditors of FTX Trading Ltd., et al.	Paul Hastings LLP	Attn: Kristopher M. Hansen, Kenneth Pasquale, Isaac Sasson	200 Park Avenue		New York	NY	10166	krishansen@paulhastings.com kenpasquale@paulhastings.com isaacsasson@paulhastings.com	Email
Counsel to Caramila Capital Management LLC and Residia Asset Management AG	Polsinelli PC	Attn: Christopher A. Ward	222 Delaware Avenue, Suite 1101		Wilmington	DE	19801	cward@polsinelli.com	Email
Counsel to Caramila Capital Management LLC and Residia Asset Management AG	Polsinelli PC	Attn: Jeremy R. Johnson	600 Third Avenue, 42nd Floor		New York	NY	10016	jeremy.johnson@polsinelli.com	Email
Counsel to Ad Hoc Group of Genesis Lenders	Proskauer Rose LLP	Attn: Brian S. Rosen, Vincent Indelicato, Megan R. Volin, Peter D. Doyle, Genesis G. Sanchez Tavaréz, William D. Dalsen	Eleven Times Square		New York	NY	10036	brosen@proskauer.com vindelicato@proskauer.com mvolin@proskauer.com PDoyle@proskauer.com GSanchezTavaréz@proskauer.com wdalsen@proskauer.com	Email
Counsel to Ad Hoc Group of Genesis Lenders	Proskauer Rose LLP	Attn: Jordan E. Sazant	70 West Madison, Suite 3800		Chicago	IL	60602	jsazant@proskauer.com	Email
Securities and Exchange Commission - Headquarters	Securities & Exchange Commission	Attn: Secretary Of The Treasury	100 F Street, NE		Washington	DC	20549	secbankruptcy@sec.gov nyrobankruptcy@sec.gov	Email

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Securities and Exchange Commission - Regional Office	Securities & Exchange Commission - NY Office	Attn: Bankruptcy Department	Brookfield Place	200 Vesey Street, Suite 400	New York	NY	10281-1022	bankruptcynticeschr@sec.gov	Email
Securities and Exchange Commission - Regional Office	Securities & Exchange Commission - Philadelphia Office	Attn: Bankruptcy Department	One Penn Center	1617 JFK Blvd, Ste 520	Philadelphia	PA	19103	secbankruptcy@sec.gov	Email
Special Litigation Counsel to the Official Committee of Unsecured Creditors	Seward & Kissel LLP	Attn: John R. Ashmead, Mark D. Kotwick, Catherine V. LoTempio, Andrew J. Matott	One Battery Park Plaza		New York	NY	10004	ashmead@sewkis.com kotwick@sewkis.com lotempio@sewkis.com matott@sewkis.com	Email
Bankruptcy Counsel to the Securities Litigation Lead Plaintiff	Silver Golub & Teitell LLP	Attn: Ian W. Sloss	One Landmark Square, 15th Floor		Stamford	CT	06901	isloss@sgtlaw.com	Email
Attorney for Vivian Farmery	Stuart P. Gelberg	Attn: Stuart P. Gelberg	125 Turkey Lane		Cold Spring Harbor	NY	11724		First Class Mail
Counsel to FTX Trading Ltd.	Sullivan & Cromwell LLP	Attn: Andrew G. Dietrich, James L. Bromley, Brian D. Glueckstein, Alexa J. Kranzley, Christian P. Jensen	125 Broad Street		New York	NY	10004	dietricha@sullcrom.com bromleyj@sullcrom.com gluecksteinb@sullcrom.com kranzleya@sullcrom.com iensenc@sullcrom.com	Email
Counsel to TN Dept of Revenue	TN Dept of Revenue	Attn: TN Attorney General's Office	Bankruptcy Division	PO Box 20207	Nashville	TN	37202-0207		First Class Mail
United States Attorney's Office for the Southern District of New York	U.S. Attorney for Southern District Of New York	Attn: Bankruptcy Division	86 Chambers Street	3rd Floor	New York	NY	10007	jeffrey.oestericher@usdoj.gov lawrence.fogelman@usdoj.gov peter.aronoff@usdoj.gov linda.riffkin@usdoj.gov	Email
Counsel to Digital Currency Group, Inc.	Weil, Gotshal & Manges LLP	Attn: Jeffrey D. Saferstein, Ronit Berkovich, Jessica Liou, Furqaan Siddiqui	767 Fifth Avenue		New York	NY	10153	jeffrey.saferstein@weil.com ronit.berkovich@weil.com jessica.liou@weil.com furqaan.siddiqui@weil.com	Email
Counsel to Official Committee of Unsecured Creditors	White & Case LLP	Attn: Gregory F. Pesce	111 South Wacker Drive	Suite 5100	Chicago	IL	60606	gregory.pesce@whitecase.com	Email
Counsel to Official Committee of Unsecured Creditors	White & Case LLP	Attn: J. Christopher Shore, Philip Abelson, Michele J. Meises	1221 Avenue of the Americas		New York	NY	10020	cshore@whitecase.com philip.abelson@whitecase.com michele.meises@whitecase.com	Email
Counsel to Barry Habib	Windels Marx Lane & Mittendorf, LLP	Attn: James M. Sullivan	156 West 56th Street		New York	NY	10019	jsullivan@windelsmarx.com	Email